

RULES OF PROCEDURE OF THE STATE BAR OF CALIFORNIA

RULES 106, 203, and 404 - 406,

(Amended by the Board of Governors, April 6, 2001)

RULE 106. DISQUALIFICATION OF JUDGES.

[Subsections (a) through (d) remain unchanged.]

(e) A motion to disqualify shall be made within the earliest of the following dates:

- (1) ~~thirty (30)~~ **ten (10)** days after the ground for disqualification first became known to the party making the motion or to that party's counsel;
- (2) prior to ~~the introduction~~ **commencement** of ~~evidence at~~ trial
- (3) twenty (20) days prior to oral argument held before the Review Department; and
- (4) if the assignment of the matter to the judge, or the grounds for disqualification were not known to the moving party sufficiently in advance to permit the filing of a written motion in accordance with paragraphs (d)(1), (2), and/or (3), the party shall file the motion promptly and shall make an oral motion at the start of the next hearing, trial, conference, or argument.

[Subsections (f) through (h) remain unchanged.]

RULE 203. VACATING DEFAULT.

[Subsections (a) and (b) remain unchanged.]

(c) Motion to Set Aside Default. A respondent whose default has been properly entered under rule 200 or 201 may make a motion under this paragraph to set aside the default on the grounds of mistake, inadvertence, surprise or excusable neglect. Those grounds shall be interpreted in the same manner as in civil matters arising under Code of Civil Procedure section 473.

[Paragraphs (1) through (3) remain unchanged.]

- (4) A motion under this paragraph shall be supported by one or more declarations showing:
 - (A) the date on which the respondent first learned of the notice of disciplinary charges;
 - (B) the reason why the respondent did not file a response **to the notice of disciplinary charges** prior to the entry of default (if no response was filed);
 - (C) the date on which the respondent first learned of the entry of default;
 - (D) the reasons or grounds for setting aside the default; and
 - (E) if a decision has been filed, an offer of proof of facts that the respondent expects to show if relieved from default, including any facts in mitigation.

[Subsections (d) and (e) remain unchanged.]

RULE 404. REPRESENTATION BY COUNSEL.

- (a) If further proceedings are conducted under rules 402(b) or 403(b) and the member is not represented by counsel, the Court may appoint counsel without expense to the member. Appointed counsel shall be compensated by order of the Court for reasonable expenses and for reasonable fees for matters before the Court or for seeking review from the California Supreme Court of a decision of the Review Department ordering or upholding an order of inactive enrollment, at an hourly rate fixed by the Executive Committee. The reasonableness of counsel's fee and expenses shall be determined by the Court.
- (b) In cases where counsel has been appointed under this rule, the Clerk shall prepare and furnish to such counsel, free of charge upon request, copies of compact disks, audiotapes and/or transcripts of all or any part of any relevant State Bar Court proceeding involving the member.
- (c) Failure or inability of the member to assist counsel, standing alone, shall not be a basis for abatement of the section 6007(b)(1) proceeding, continuance or motion by counsel to be relieved as attorney of record in proceedings under these rules.
- (d) Counsel appointed under this rule shall have the authority to file motions to abate or continue other pending State Bar Court proceedings involving the same member, and shall be compensated for doing so as provided in paragraph (a).
- (e) Within fifteen (15) days after the service of an order of a hearing judge awarding fees and/or costs under this rule, the counsel to whom the award is made may file a petition under rule 300 for review of the hearing judge's determination as to the amount to be awarded. The action of the Review Department on the petition shall be the final decision of the State Bar as to the amount to be awarded.

[Rules 404 through 406 remain unchanged, but are re-numbered as Rules 405 through 407, respectively.]
